



# CITY COUNCIL

## AGENDA REQUEST

<b>AGENDA OF:</b>	<b>12-20-11</b>	<b>AGENDA REQUEST NO:</b>	<b>IV-K</b>
<b>INITIATED BY:</b>	<b>GABE REAUME</b> <i>GTR</i> <b>BUDGET &amp; MANAGEMENT ANALYST</b>	<b>RESPONSIBLE DEPARTMENT:</b>	<b>BUDGET &amp; RESEARCH</b>
<b>PRESENTED BY:</b>	<b>GABE REAUME</b> <i>GTR</i> <b>BUDGET &amp; MANAGEMENT ANALYST</b>	<b>DIRECTOR:</b>	<b>JENNIFER BROWN</b> <i>JB</i> <b>DIRECTOR OF BUDGET &amp; RESEARCH</b>
		<b>ADDITIONAL DIRECTOR (S):</b>	<b>N/A</b>
<b>SUBJECT / PROCEEDING:</b>	<b>COMPREHENSIVE USER FEE STUDY AWARD OF PROFESSIONAL SERVICES CONTRACT TO MAXIMUS CONSULTING SERVICES, INC.</b>		
<b>EXHIBITS:</b>	<b>CONTRACT</b>		
<b>CLEARANCES</b>		<b>APPROVAL</b>	
<b>LEGAL:</b>	<b>EUGENIA CANO,</b> <b>ASSISTANT CITY ATTORNEY</b> <i>EAC</i>	<b>ASSISTANT CITY MANAGER:</b>	<b>KAREN GLYNN</b> <i>KG</i>
<b>PURCHASING:</b>	<b>TODD REED</b> <b>PURCHASING MANAGER</b> <i>P</i>	<b>ASSISTANT CITY MANAGER:</b>	<b>N/A</b>
<b>BUDGET:</b>	<b>JENNIFER BROWN</b> <i>JB</i> <b>DIRECTOR OF BUDGET &amp; RESEARCH</b>	<b>CITY MANAGER:</b>	<b>ALLEN BOGARD</b> <i>Allen Bogard</i>
<b>BUDGET</b>			
<b>EXPENDITURE REQUIRED: \$</b>		<b>89,100</b>	
<b>CURRENT BUDGET: \$</b>		<b>93,750</b>	
<b>ADDITIONAL FUNDING: \$</b>		<b>N/A</b>	
<b>RECOMMENDED ACTION</b>			
Authorize the execution of a professional services contract with MAXIMUS Consulting Services, Inc. for a comprehensive user fee study in an amount not to exceed \$89,100.			

## EXECUTIVE SUMMARY

In accordance with the City Council-adopted user fee philosophy, the City strives to recover the costs of providing services where the user of the services receives a measurable benefit. A comprehensive user fee review was identified during the spring 2011 department head retreat as a priority for FY12. This study will utilize a consultant to review our fees for services and recommend a structure and methodology for establishing and adjusting user fees. The fee structure will incorporate both direct and indirect costs of providing services and will comply with all applicable regulations.

The consultant selected will conduct a thorough review of all user fees to ensure the City is recovering costs at an appropriate level and that fees are appropriate and comparable with other cities of our size and complexity. Rates in enterprise funds (such as utility and solid waste rates) will not be examined and are not part of the scope of this study; however, some user fees in enterprise funds may be applicable. The consultant will conduct extensive interviews with City departments that have user fees associated with their operations. They will examine the costs of providing these services and ultimately recommend a user fee structure and methodology which will be used for the FY13 budget planning process. The study will also provide recommendations for processes to adjust user fees in future years. It is anticipated that the study and corresponding report will be completed in early 2012, in time to incorporate the impact of the recommended fee changes into the FY13 budget. Additionally, the study will review and recommend potential fees the City is not currently charging. These new fees will then be further evaluated in more detail to determine if they are applicable and well suited to Sugar Land.

In accordance with PU-105 Purchases and Contracts over \$50,000, a request for proposals (RFP) was prepared and distributed in November 2011. The RFP was structured so that the low bidder was not the automatic selection. Instead, proposals were evaluated based on qualifications and past experience. Seven proposals were received on November 17<sup>th</sup>, 2011. A selection committee of five City staff members from various departments evaluated and scored each proposal.

MAXIMUS Consulting Services, Inc. was the top-rated firm. The pricing on their proposal was \$89,100, which is \$4,650 lower than what is budgeted for the study. Other proposals included pricing that was significantly less than MAXIMUS. However, MAXIMUS has extensive experience in performing comprehensive fee studies, recently performing comprehensive studies for Midland, TX, Tampa, FL, Nashville, TN, and Reading, PA. They have a solid and experienced project management team to dedicate to the City of Sugar Land. Additionally, staff has worked with MAXIMUS on other projects and was very pleased with their services. Other references were also positive. Other firms submitting proposals lacked specific experience in performing comprehensive, multi-department fee studies for cities. Several performed fee studies or cost analyses limited to a single department-level. The scope of this project and RFP was structured specifically to target a consultant who could provide a more holistic review. If the scope of work was negotiated and reduced for MAXIMUS, it is likely the pricing of the proposal would decrease as well.

This recommendation was reviewed with the Finance-Audit Committee and they concurred with Staff's recommendation. Staff recommends City Council approval of a contract in the amount of \$89,100 with MAXIMUS Consulting Services, Inc. to conduct a comprehensive user fee study.

## EXHIBITS

**CITY OF SUGAR LAND**  
**STANDARD CONTRACT FOR GENERAL SERVICES**  
Over \$50K - Form Revised 5/17/10

**I. General Information and Terms.**

Contractor's Name and Address: Maximus Consulting Services, Inc.  
1425 Hughes Road, Suite 325  
Grapevine, TX 76051

Description of Services: Comprehensive User Fee Study

Maximum Contract Amount: \$89,100

Effective Date: On the latest date of the dates executed by both parties.

Termination Date: (See III C)

Contract Parts: This Contract consists of the following parts:

- I. General Information and Terms
- II. Signatures
- III. Standard Contractual Provisions
- IV. Additional Terms or Conditions
- V. Additional Contract Documents

**II. Signatures.** By signing below, the parties agree to the terms of this Contract:

**CITY OF SUGAR LAND**

**CONTRACTOR:**

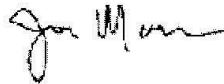
\_\_\_\_\_  
City Manager or Assistant City Manager

By:  \_\_\_\_\_

Date: \_\_\_\_\_

Date: 12/15/11

Reviewed for Legal Compliance:



**Adam Polatnick**  
**Vice President**  
**Assistant General Counsel**

### **III. Standard Contractual Provisions.**

A. Contractor's Services. The Contractor will provide to the City the services described in this Contract under the terms and conditions of this Contract.

B. Billing and Payment. The Contractor will bill the City for the services provided at intervals of at least 30 days, except for the final billing. The City will pay the Contractor for the services provided for in this Contract with current revenues available to the City, but all the City's payments to the Contractor, including the time of payment and the payment of interest on overdue amounts, are subject to the provisions of Chapter 2251 of the Government Code. The City is not liable to the Contractor for any taxes which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any bill.

#### **C. Termination Provisions.**

(1) Unless terminated earlier as allowed by this Contract, this Contract terminates:

(a) On the termination date, if any, specified in the General Information in Part 1, but the obligation of a party to complete a contract requirement pending on the date of termination survives termination; or

(b) If there is no termination date specified in the General Information in Part 1, the Contract terminates when both parties have completed all their respective obligations under the Contract.

(2) The City's city manager may terminate this Contract during its term at any time for any reason by giving written notice to the Contractor not less than five business days prior to the termination date, but the City will pay the Contractor for all services rendered in compliance with this Contract to the date of termination.

(3) If the City's city council does not appropriate funds to make any payment for a fiscal year after the City's fiscal year in which the Contract becomes effective and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Contract automatically terminates at the beginning of the first day of the successive fiscal year. (Section 5, Article XI, Texas Constitution)

(4) Upon the Contractor's material breach, the City may terminate this Agreement upon thirty (30) days prior written notice to the Contractor wherein the City shall specify the nature of the default and the effective termination date. Upon such notice, the Contractor shall be entitled to the opportunity to cure any such default prior to the effective date of termination.

D1. Liability and Indemnity. Except as provided otherwise in this Contract, any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.

D2. Notwithstanding section D1, Contractor shall defend, indemnify and hold harmless City from and against damages, liability and costs (including reasonable attorney fees) directly caused by the negligent actions or willful misconduct of Contractor, its employees or agents. Contractor shall not be responsible for any damages or liability resulting from the negligence or willful misconduct of City, its employees, Contractors, or agents or any third party. The Contractor's total liability to City for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to contract liability or Contractor's negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed \$250,000.

E. Assignment. The Contractor may not assign this Contract without the City's prior written consent.

F. Law Governing and Venue. This Contract is governed by the law of the State of Texas and a lawsuit may only be prosecuted on this Contract in a court of competent jurisdiction located in or having jurisdiction in Fort Bend County, Texas.

G. Entire Contract. This Contract represents the entire Contract between the City and the Contractor and supersedes all prior negotiations, representations, or contracts, either written or oral. This Contract may be amended only by written instrument signed by both parties.

H. Independent Contractor. The Contractor will perform the work under this Contract as an independent contractor and not as an employee of the City. The City has no right to supervise, direct, or control the Contractor or Contractor's officers or employees in the means, methods, or details of the work to be performed by Contractor.

I. Dispute Resolution Procedures. If either party disputes any matter relating to this Contract, the parties agree to try in good faith, before bringing any legal action, to settle the dispute by submitting the matter to mediation before a third party who will be selected by agreement of the parties. The parties will each pay one-half of the mediator's fees.

J. Attorney's Fees. Should either party to this Contract bring suit against the other party for any matter relating to this Contract, neither party will seek or be entitled to an award of attorney's fees or other costs relating to the suit.

K. Severability. If a court finds or rules that any part of this Contract is invalid or unlawful, the remainder of the Contract continues to be binding on the parties.

L. Contractual Limitations Period. Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

M. Conflicting Provisions. If there is a conflict between a provision in the Contractor's Additional Contract Documents and a provision in the remainder of this Contract, the latter controls.

N. Copyright. Any original work (the Work), including any picture, video, music, brochure, writing, trademark, logo or other work created by the Contractor for the use of the City under this Contract is a "work made for hire," as defined by federal copyright law. If the Work is not by law a "work made for hire," the Contractor by execution of this Contract assigns to the City all of its rights to the Work, including the

copyright. The City, as the author and owner of the copyright to the Work, may alter, reproduce, distribute, or make any other use of the Work as it deems appropriate.

O. Accuracy of Information. The Contractor shall provide guidance to the City in determining the data required. The Contractor shall assume without incurring liability therefor that all data so provided is correct and complete. The Contractor shall make its best effort to complete the project on a timely basis. The Contractor shall not be liable for work that cannot be completed as a result of inadequate data, or data that is provided in an untimely manner.

**IV. Additional Terms or Conditions.** None.

**V. Additional Contract Documents.** The following documents attached to this Contract are part of this Contract:

A. Contractor's Additional Contract Documents:

1. Maximus Consulting Services, Inc. Proposal Dated November 17, 2011 (79 pages)

B. City's Additional Contract Documents:

1. Request for Proposal No. 2012-07 (21 pages)
2. Insurance Form (2 pages)